

IN THE UNITED STATES DISTRICT COURT

FEB 26 2008

U.S. DISTRICT COURT
DISTRICT OF DELAWAREJAMES ARTHUR BIGGINS,
Plaintiff,vs.
GOVERNOR RUTH ANN MINNER, ET AL.,
Defendants.

CAN. 1-08-cv-4 GMS

MOTION BY PLAINTIFF IN RESPONSE TO DEFENDANTS MOTION FOR ENLARGEMENT
OF TIME

JAMES ARTHUR BIGGINS, the plaintiff in this instant case, submits this motion to strike Deputy Attorney General (Ophelia M. Waters), for the State and Corrections Medical Services Attorney (JAMES E. DEWEE) of Balick and Balick, Wilmington, Delaware 19801, motions for enlargements of time as follows:

1. On February 11th, 2008, this Honorable Court issued an directive to the named defendants, along with JAMES WELSH, and DAVID PIERCE, Deputy Warden of the Delaware Correctional Center to respond to plaintiff motion and letter/motion for a temporary Restraining Order before February 19, 2008.

2. Plaintiff consent not to the State's request, adding that (a) the State has long been apprised of the deliberate indifference to the plaintiff's serious medical need, prior to the filing of this action by directly having informed State officials through years of requests for intervention, (b) has served the Attorney General (Joseph F. Biden III) with detailed prescriptions of his current

1. The plaintiff action is not a class action. Deputy Attorney General Waters misidentified the plaintiff's action as et al. 2. Since filing his action, Jerry Phelps has been assigned as Warden of Delaware Correctional Center.

condition with copies of the Bureau of Prison's (BPP) Pharmacy Services approving certain pain relief medications, etc., in December, January, and February of 2007 and 2008.

4. Arguably, the State may not be allowed to use what is an ordinary situation "press of other litigation" as an "extraordinary circumstance."

5. The court should further duly note, while Ms. Water's has submitted the State's request filed February 15, 2008, four days before their answer and medical records. The State's attorney deliberately withheld the plaintiff's copy thereof until February 19, 2008, before mailing (see attached copy of envelope, marked exhibit A).

6. It indeed the defendants for the State attorney needed more time to submit an appropriate reply to the court. Given Ms. Water's trial experience and litigating knowledge as an appeals attorney, waiting until the last minute is unjustifiable.

7. Ms. Water's deliberate act of delaying the plaintiff's copy of her motion to the court, must be seen as deceitful attempting to delay any opportunity to respond in time, to their request in this matter and not an act of "good faith". To which, the court shouldn't overlook!

8. Mr. Durec, answering for the defendant's of Correctional Medical Services, seeks to assert sympathy from the court, by arguing "inappropriate mailing" citing an Delaware Correctional Center employee for signing for their mail of the court's Order.

9. However, I'm pointing out to the court. On cite medical administrator (Ronald Moore) was sent a copy of this court's Order on February 13, 2008. Mr. Durec's argument is without merit as for not receiving proper notice.

Therefore, for one (1) or all reasons stated, the defendant's collective motions for enlargement of times must be denied, for lack of good cause or in "bad faith".

Dated: February 21, 2008

XC: File

JAMES E. DUREC

Ophelia Waters

James Arthur Biggins
JAMES ARTHUR BIGGINS #319264
Delaware Correctional Center
Smyrna, Delaware 19977

STATE OF DELAWARE
DEPARTMENT OF JUSTICE
STATE OFFICE BUILDING
820 N. FRENCH ST.
WILMINGTON, DELAWARE 19801
15-01-01

OFFICIAL BUSINESS
Penalty For Private Use \$300.00



James Arthur Biggins, Inmate
SBI No.: 0319264
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Exhibit A

1/M JAMES ALFRED BIGGINS
SER# #31924 UNIT 22A-11-4

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

YRBA, DELAWARE 19977

U.S. District Court
Wilmington, Delaware
February 27, 2008

RECEIVED
FEB 22 2008
U.S. DISTRICT COURT
WILMINGTON, DELAWARE

LEGAL MAIL

C/O Peter Dello, Clerk of the Court
United States District Court House
Lockbox 18, 828 North King Street
Wilmington, Delaware
19801